



STATE OF CALIFORNIA
FRANCHISE TAX BOARD
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Chair

JOHN CHIANG
Member

MICHAEL C. GENEST
Member

June 2006, Franchise Tax Board Litigation Roster

All currently active cases and those recently closed are listed on the roster. Activity or changes with respect to a case appear in bold-face type. Any new cases will appear in bold-face type.

A list of new cases that have been added to the roster for the month is also provided, as well as a list of cases that have been closed and will be dropped from the next report.

The Franchise Tax Board posts the Litigation Roster on its Internet site. The Litigation Roster can be found at: <http://www.ftb.ca.gov/law/litrstr/index.html>.

The Litigation Rosters for the last four years may be found on the Internet site.

FRANCHISE AND INCOME TAX
Closed Cases – June 2006

<u>Case Name</u>	<u>Court Number</u>
Galaski, Gregory John	San Diego Superior Court No. IC833950
Vertullo, John & Barbara	San Diego Superior Court No. GIC848577

FRANCHISE AND INCOME TAX
New Cases – June 2006

<u>Case Name</u>	<u>Court Number</u>
City National Corporation	Sacramento Superior Court No. 06AS02275
Delucchi, Mario and Kathleen, et al.	Sacramento Superior Court No. 06AS02661
Golden West Health Plan, Inc.	Los Angeles Superior Court No. BC353849
Hilton, Eric and Bitten	Los Angeles Superior Court No. BC354308

**FRANCHISE AND INCOME TAX
MONTHLY REFUND LITIGATION ROSTER**

June 2006

CITY NATIONAL CORPORATION v. Franchise Tax Board

Los Angeles Superior Court Docket No. BC334772
Court of Appeal, 2nd Appellate District No. B189240

Filed – 06/10/05

Taxpayer's Counsel

Kenneth R. Chiate, Mary S. Thomas
Quinn, Emanuel, Urquhart, Oliver & Hedges, LLP

FTB's Counsel

Donald R. Currier
Joseph M. O'Heron

Sherrill Johnson
Offices of the General Counsel
City National Bank

Issues: 1. Whether Plaintiff improperly engaged in tax shelter transaction involving Regulated Investment Trusts (REITs) and Regulated Investment Companies (RICs) during the subject years.
2. Whether certain subsidiaries were exempt from California taxation as IRC 501(c)(15) entities.
3. Whether Plaintiff has satisfied the requirement of exhausting all administrative remedies in order to maintain a lawsuit.

Years: 1999 through 2003

Amount \$84,676,129.00

Status: Plaintiff/Appellant's Opening Brief and Appendix Volume 2 filed on June 30, 2006.

CITY NATIONAL CORPORATION & Subs. v. Franchise Tax Board

Sacramento Superior Court Docket No. 06AS02275

Filed – 06/06/06

Taxpayer's Counsel

Kenneth R. Chiate
Quinn, Emanuel, Urquhart Oliver & Hedges, LLP

FTB's Counsel

Michael J. Cornez

Sherrill Johnson
Offices of the General Counsel
City National Bank

Issue: Whether Plaintiffs improperly engaged in tax shelter transaction involving Real Estate Investment Trusts (REITs).

Year: 2004

Amount \$23,900,000.00

Status: Plaintiffs' Summons and Complaint filed on June 6, 2006.

COLGATE-PALMOLIVE, CO. & SUBSIDIARIES v. Franchise Tax Board

Sacramento Superior Court Docket No. 03AS00707

Taxpayer's Counsel

Eric J. Coffill, Carley A. Roberts

Morrison & Foerster, LLP

Filed - 02/07/03

FTB's Counsel

Steven J. Green

Issues: 1. Whether the sales factor was properly calculated by excluding proceeds from short-term financial instruments and value added taxes assessed by foreign countries.
2. Whether the property factor needs to be adjusted to value property at its appreciated value to fairly reflect its activities in California.

Years: 1974 through 1982, 1984 through 1987, 1989 through 1991 **Amount** \$2,912,696.00

Status: Order to Stay Proceeding signed by Judge Virga on November 29, 2004, until a decision is reached in the *General Motors v. FTB* case.

CRISA CORPORATION v. Franchise Tax Board

Los Angeles Superior Court Docket No. BC345087

Taxpayer's Counsel

Steven Toscher, Michel R. Stein

Hochman Salkin, Rettig, Toscher & Perez, P.C.

Filed - 12/23/05

FTB's Counsel

Donald Currier

Issues: 1. Whether the Plaintiff's California income can be determined upon the basis of a combined report including its foreign parent.
2. Whether the amount of income allocated and apportioned to California was properly determined.
3. Whether regulation 25106.5-10 was properly applied to account for inflation experienced by the parent's company.
4. Whether the denial of the use of alternative allocation and applicant methods under section 25137 was an abuse of discretion.

Years: 1987 through 1989 **Amount** \$622,800.00

Status: Case Management Conference held on June 6, 2006. Mandatory Settlement Conference scheduled for February 22, 2007, and Trial scheduled for March 5, 2007.

DELUCCHI, MARIO & KATHLEEN, et al v. Franchise Tax Board

Sacramento Superior Court Docket No. 06AS02661

Taxpayer's Counsel

Harry Gordon Oliver II

Attorney at Law

Filed -

FTB's Counsel

Michael J. Cornez

Issues: 1. Whether Plaintiffs properly computed income on an installment sale.
2. Whether Plaintiffs may be deemed to have elected out of the installment method.
3. Whether Plaintiffs' gain on the sale of a stock qualified for exemption as Small Business Stock in 1995.

Years: 1995 **Amount** \$988,900.00

Status: Plaintiffs' Summons and Complaint served on the Franchise Tax Board on June 23, 2006.

DILTS, WALTER B. JR. AND PHYLLIS A. KAPPELER v. Franchise Tax Board

San Francisco Superior Court Docket No. CGC04436496

Filed - 11/19/04

Taxpayer's Counsel

FTB's Counsel

R. Todd Luoma

Anne Michelle Burr

Law Office of Richard Todd Luoma

Issue: Whether Plaintiffs ceased to be California residents as of December 16, 1994.

Years: 1994 and 1995

Amount \$973,101.00

Status: **Order to Show Cause scheduled for June 08, 2006, is off calendar and Continued to January 8, 2008, Notice sent by the Court on June 20, 2006.**

GARCIA, W. ROCKE AND GLENDA L. v. Franchise Tax Board

San Francisco Superior Court Docket No. CGC 06452218

Filed – 05/12/06

Taxpayer's Counsel

FTB's Counsel

William J. McLean

Kristian Whitten

Thoits, Love, Hershberger & McLean

Issues:

1. Whether Plaintiffs exhausted administrative remedies prior to filing suit.
2. Whether Plaintiffs timely acquired a replacement property for property involuntarily converted so as to defer recognition of gain pursuant to IRC §1033.
3. Whether penalties authorized by section 19777.5(a) were properly imposed.

Year: 1992

Amount \$616,076.00

Status: **Defendant's Demurrer to Complaint, Points and Authorities and Declaration filed on June 19, 2006, Hearing on Demurrer scheduled for July 13, 2006.**

GENERAL ELECTRIC COMPANY AND SUBSIDIARIES v. Franchise Tax Board

San Francisco Superior Court Docket No. CGC06-449157

Filed – 02/03/06

Taxpayer's Counsel

FTB's Counsel

Amy L. Silvertin

David Lew

Silverstein & Pomerantz, LLP

Jeffrey M. Vesely

Pillsbury, Winthrop, Shaw, Pittman, LLP

Issues:

1. Whether the penalty imposed by section 19777.5(a) on amounts due and payable on March 31, 2005, for years beginning before January 31, 2003, violates the Due Process Clause of the United States Constitution.
2. What is the meaning of "due and payable" for purposes of section 19777.5(a) of the Revenue and Taxation Code?

Years: (None)

Amount \$0.00

Status: Defendant's Notice of Demurrer and Demurrer to Verified First Amended Complaint for Declaratory Relief was filed on June 9, 2006. Plaintiffs' Opposition to Notice of Demurrer and Demurrer filed on June 28, 2006.

GENERAL MILLS, INC. & SUBSIDIARIES v. Franchise Tax Board

San Francisco Superior Court Docket No. CGC05-439929

Filed – 03/29/05

Taxpayer's Counsel

Thomas H. Steele

Andres Vallejo, Jeffrey S. Terraciano

Morrison & Foerster LLP

FTB's Counsel

Marguerite Stricklin

Issues: 1. Whether the Plaintiffs' payroll factor was properly computed by excluding foreign employee stock options.
2. Whether the Plaintiffs' sales factor was properly calculated by excluding receipts from commodities transactions and short-term financial instruments.
3. Whether federal RAR adjustments were properly taken into account.

Years: 1992 through 1997

Amount \$3,550,367.00

Status: Minute Order, Case Management Conference held on June 21, 2006, and continued to October 25, 2006, Trial scheduled for February 20, 2007.

GENERAL MOTORS CORPORATION, et al. v. Franchise Tax Board

Los Angeles Superior Court Docket No. BC269404

Filed - 03/06/02

Court of Appeal, 2nd Appellate District No. B165665

California Supreme Court No. S127086

Taxpayer's Counsel

Charles R. Ajalat

Law Office of Ajalat, Polley & Ayooob

FTB's Counsel

Stephen Lew

Donald Currier

Joseph O'Heron

Issues: 1. Whether gross receipts from the disposition of marketable securities were properly excluded from the sales factor.
2. Whether interest income was properly characterized as business income.
3. Whether dividends received with respect to stock representing less than a 50% voting interest were properly classified as business income.
4. Whether the limitation on deductions prescribed by sections 24402 and 24410 resulted in unconstitutional discriminatory taxation.
5. Whether various receipts from intangible assets were properly excluded from the sales factor.
6. Whether research tax credits were properly limited to the entity incurring the expense.
7. Whether a deduction was properly denied with respect to foreign country taxes withheld on dividends.
8. Whether the taxpayer is entitled to an increased deduction with respect to depreciation on assets held by foreign country subsidiaries.
9. Whether the taxes determined to be owing by the Franchise Tax Board were properly computed and assessed.

Years: 1986 through 1988

Amount \$10,692,755.00

Status: Oral Argument held on June 2, 2006.

GOLDEN WEST HEALTH PLAN, INC. v. Franchise Tax Board

Los Angeles Superior Court Docket No. BC

Taxpayer's Counsel

Alan R. Maler

Greenberg Traurig, LLP

Filed – 06/15/06

FTB's Counsel

Marla Markman

Issue: Whether Plaintiff made a valid S Corporation election for California purposes.

Year: 04/01/03 - 06/01/03

Amount \$669,045.00

Status: Plaintiff's Summons and Complaint was served personally on the Franchise Tax Board on June 19, 2006.

HAMEETMAN, FRED AND JOYCE v. Franchise Tax Board

Los Angeles Superior Court Docket No. BC 305968

Court of Appeal, 2nd Appellate District No. B187278

Taxpayer's Counsel

Eric L. Troff, Esq.

Gibbs, Giden, Locher & Turner, LLP

Filed - 11/12/03

FTB's Counsel

Donald Currier

Issue: Whether Plaintiffs were entitled to a business bad debt reduction.

Years: 1990 and 1993

Amount \$65,738.00

Status: Defendant/Respondent's Stipulation of Extension of Time filed on June 19, 2006, to File Reply Brief, on July 26, 2006.

HILTON, ERIC & BITTEN v. Franchise Tax Board

Los Angeles Superior Court Docket No. BC354308

Taxpayer's Counsel

Richard K. Semeta

A Professional Law Corporation

Filed – 06/21/06

FTB's Counsel

Anthony Sgherzi

Issue: Whether a portion of the gain realized on the exercise of stock options by a non-resident was California source income.

Year 1997

Amount \$27,346.98

Status: Plaintiffs' Summons and Complaint served by mail on the Franchise Tax Board on June 23, 2006.

HYATT, GILBERT P. v. Franchise Tax Board

Clark County Nevada District Court No. A382999

Filed - 01/06/98

Nevada Supreme Court No. 47141*Taxpayer's Counsel*Thomas L. Steffen & Mark A. Hutchison
Hutchison & Steffen, H. Bartow Farr III*FTB's Counsel*James W. Bradshaw
McDonald, Carano,
Wilson LLP
Las Vegas, Nevada

- Issues: 1. Whether Plaintiff was a resident of California from September 26, 1991 through April 2, 1992.
2. Whether the Franchise Tax Board committed various torts with respect to plaintiff and is subject to a claim for damages.
3. Whether the Nevada courts have or should exercise jurisdiction over the Franchise Tax Board.

Years: 1991 and 1992Amount \$7,545,492.00 Tax
\$5,659,119.00 PenaltyStatus: **Nevada Supreme Court****Plaintiff Hyatt's Petition for Writ of Mandamus filed on April 4, 2006. Trial Court Order vacating trial date of August 15, 2006, for Stay of All Proceedings Pending Action by Nevada Supreme Court on June 19, 2006. Defendant FTB's Answer to Petition for Writ of Mandamus filed on June 20, 2006.****JIBILIAN, TONY & DOROTHY v. Franchise Tax Board**

Los Angeles Superior Court Docket No. BC298685

Filed – 07/09/03

Court of Appeal 2nd Appellate District Court No. B175952

California Supreme Court No. S142011

*Taxpayer's Counsel*Derek L. Tabone, Esq.
Law Offices of Tabone, APC*FTB's Counsel*Brian Wesley
Elisa Wolfe-DonatoIssue: Whether Plaintiffs have taxable income for the years involved.Years: 1999 through 2001Amount \$208,742.00Status: Petitioners' Petition for Review denied on May 10, 2006.**KIM, PAUL M. v. Franchise Tax Board**

Los Angeles Superior Court Docket No. BC333465

Filed – 05/13/05

*Taxpayer's Counsel*Yoon Han Kim
Law Offices of Yoon Han Kim & Assoc.*FTB's Counsel*

Donald R. Currier

- Issues: 1. Whether Plaintiff had income from payments received as the result of a lawsuit.
2. Whether Plaintiff had a loss arising from foreclosure of property.
3. Whether Plaintiff filed a claim for refund.

Year: 1993Amount \$16,098.46

Status: Notice of Continuance of Trial to July 25, 2006.

KUHN, DAVID & ELIZABETH v. Franchise Tax Board

Alameda Superior Court Docket No. WG05212795

Taxpayer's Counsel

David N. Kuhn

Attorney at Law

Filed – 05/13/05

FTB's Counsel

David Lew

Issues: 1. Whether Plaintiffs timely filed claims for refund.
2. Whether estoppel should lie against the Board for failing to notify Plaintiffs of the statute of limitations.

Years: 1994 through 1996

Amount \$18,090.48

Status: Discovery proceeding.

THE LIMITED STORES, INC. AND AFFILIATES v. Franchise Tax Board

Alameda Superior Court Docket No. 837723-0

Court of Appeal, 1st Appellate District Court No. A102915

California Supreme Court No. S136922

Taxpayer's Counsel

Edwin P. Antolin

Morrison & Foerster, LLP

Filed - 04/09/01

FTB's Counsel

Joyce Hee

Issues: 1. Whether gross receipts from the sale of short-term financial instruments should be included in the sales factor.
2. Whether gain realized on the sale of a partial interest in a limited partnership formed from three subsidiaries constitutes business income.

Years: 1993 and 1994

Amount \$2,185,718.00

Status: Petition for Review granted on October 26, 2005. Further action in this matter is deferred pending consideration and disposition of a related issued in General Motors and Microsoft or pending further order of the court.

LUCAS, LADONNA v. Franchise Tax Board

Los Angeles Superior Court Docket No. BS102039

Taxpayer's Counsel

LaDonna Lucas, In Pro Per

Filed – 03/08/06

FTB's Counsel

Felix Leatherwood

Issues: 1. Whether the Superior Court has jurisdiction to consider the action filed by the Plaintiff.
2. Whether Appellant qualifies as a head of household for the year 2002 and 2003.

Years: 2002 and 2003

Amount Unknown

Status: Minute Order filed on June 22, 2006; Hearing on Respondent's Demurrer and Hearing on Petition for Writ of Mandate scheduled for July 3, 2006, and continued to July 21, 2006.

MARKEN, DONALD W. & CLAUDINE H. v. Franchise Tax Board

San Francisco Superior Court Docket No. 302520

Filed - 04/05/99

Court of Appeal, 1st Appellate Dist. No. A091644

California Supreme Court No. S 104529

Court of Appeal, 1st Appellate Dis. No. A109715

Court of Appeal, 1st Appellate District No. A110668 (Attorneys' Fees)

Taxpayer's Counsel

William E. Taggart, Jr.

Taggart & Hawkins

FTB's Counsel

Marguerite Stricklin

Issue: Whether Plaintiffs were residents of California in 1993.

Year: 1993

Amount \$244,012.00

Status: **Plaintiffs/Appellants' Reply Brief filed under A109715 on June 22, 2006.**

THE MCGRAW-HILL COMPANIES, INC., a New York Corporation v. Franchise Tax Board

San Francisco Superior Court Docket No. CGC 03424737

Filed - 09/24/03

Court of Appeal, 1st Appellate Dist. Div. One No. A109907

California Supreme Court No. S143330

Taxpayer's Counsel

Jeffrey M. Vesely, Richard E. Nielsen & Annie H. Huang

Pillsbury Winthrop, LLP

FTB's Counsel

Anne Michelle Burr

Issues: 1. Whether Plaintiff was entitled to use Marked-to-Market accounting allowed under the Internal Revenue Code when those provisions had not been adopted by California.
2. Whether other adjustments made or allowed by the Internal Revenue Service should be allowed by California.

Years: 1993 and 1994

Amount \$606,744.00

Status: **Plaintiff/Appellant's Reply to Defendant/Respondent's Answer to Petition for Review filed in the Supreme Court on June 7, 2006.**

MICROSOFT CORPORATION v. Franchise Tax Board

San Francisco Superior Court Docket No. 400444

Filed - 10/19/01

Court of Appeal, 1st Appellate Dist. Div. 3 No. A105312

California Supreme Court No. S133343

Taxpayer's Counsel

James P. Kleier, Esq.

Reed Smith LLP

FTB's Counsel

Julian O. Standen

Joseph Patton Powers

Baker & McKenzie

- Issues: 1. Whether the denominator of the receipts factor was properly calculated by excluding receipts from marketable securities.
2. Whether the limitation on the deduction of dividends provided for in Section 24402 discriminates.
3. Whether adjustments made to increase the income of controlled foreign corporations included in the combined report were proper.

Year: 1991 Amount \$1,879,809.00

Status: **Oral Argument held on June 2, 2006.**

MONTGOMERY WARD LLC v. Franchise Tax Board v. Franchise Tax Board

San Diego Superior Court Docket No. GIC802767

Filed - 12/30/02

Taxpayer's Counsel

FTB's Counsel

Antolin, Pilar M. Sansone, Amy Silverstein
Silverstein & Pomerantz, LLP

Domini Pham

- Issues: 1. Whether proceeds from the sale, maturity or other disposition of short-term financial instruments were properly excluded from the sales factor.
2. Whether section 24402 Rev. & Tax. Code is constitutional.

Years: 1989 through 1994 Amount \$2,694,192.00

Status: Status Conference held on March 17, 2006, and continued to September 15, 2006.

NEW GAMING SYSTEMS, INC. & AKA INDUSTRIES, INC. v. Franchise Tax Board

Sacramento Superior Court Docket No. 03AS05705

Filed - 10/10/03

Taxpayer's Counsel

FTB's Counsel

Spencer T. Malysiak
Spencer T. Malysiak Law Corp.

Michael Cornez

- Issues: 1. Whether New Gaming Systems, Inc., timely filed its suit for refund for the income year ended March 31, 1996.
2. Whether a declaratory relief action can be brought to prevent the collection of tax.
3. Whether a suit for refund can be maintained for a year in which the amount of tax has not been paid in full.
4. Whether Plaintiffs are liable for California taxes on income generated from leases for operating Indian casinos.

Years: 1996 and 1997 Amount \$90,773.05

Status: Trial Setting Conference rescheduled to May 15, 2006.

NEWS AMERICA INCORPORATED (FOX, INC.) v. Franchise Tax Board

Los Angeles Superior Court Docket No. BC350576

Taxpayer's Counsel

Neil R. O'Hanlon

Hogan & Hartson, LLP

Filed – 04/12/06

FTB's Counsel

Felix E. Leatherwood

- Issues:
1. Whether the Franchise Tax Board properly classified gain realized on the sale of an interest in a partnership as nonbusiness income.
 2. If the gain on the sale of the interest in a partnership was nonbusiness income, whether it should be allocated to New York.
 3. Whether the assignment to California of the gain realized on the sale of the partnership fairly reflects the activities of the taxpayer in this state.

Year: 1989Amount \$1,726,405.00Status: **Hearing on Order to Show Cause off calendar on June 21, 2006.****NORTHWEST ENERGETIC SERVICES, LLC v. Franchise Tax Board**

San Francisco Superior Court Docket No. CGC05-437721

Taxpayer's Counsel

Amy L. Silverstein, Edwin Antolin

Silverstein & Pomerantz

Filed – 01/15/05

FTB's Counsel

Marguerite Stricklin

Issue: Whether Revenue and Taxation Code section 17942, which imposes a tax upon the "total income from all sources reportable to this state" of LLC registered with the Secretary of State, violates the Due Process Clause and Commerce Clauses.

Years: 12/31/97 through 12/31/01Amount \$25,067.00 Tax
\$ 3,764.29 PenaltyStatus: Judgment entered in favor of Plaintiff on May 4, 2006.**ORDLOCK, BAYARD M. & LOIS S. v. Franchise Tax Board**

Los Angeles Superior Court Case No. BC278386

Court of Appeal, 2nd Appellate Dist. No. B169465

California Supreme Court No. S127649

Taxpayer's Counsel

Clayton Vreeland

Bingham McCutchen LLP

Filed - 07/25/02

FTB's Counsel

Amy J. Winn

Issue: Whether the tax involved was timely assessed.

Year: 1983Amount \$12,350.00

Status: **Opinion filed on June 8, 2006, Judgment is reversed in favor of Defendant/Respondent FTB. Plaintiffs/Appellants' Petition for Rehearing filed in the California Supreme Court on June 23, 2006.**

PLAYMATES TOYS, INC. v. Franchise Tax Board

Los Angeles Superior Court Docket No. BC344785

Taxpayer's Counsel

Craig J. Stein

Gelfand, Stein & Wasson, LLP

Filed – 12/19/05

FTB's Counsel

Joseph M. O'Heron

Issue: Whether Defendant Franchise Tax Board properly computed the numerator of the taxpayer's California sales factor by assigning sales made from Hong Kong to California.

Years: 1988 through 1990

Amount \$1,582,288.00

Status: **Defendant's Demurrer filed on June 28, 2006.**

SHAFRAN, ALLEN J. & TOBY v. Franchise Tax Board

Los Angeles Superior Court Docket No. BC 316070

Court of Appeal, 2nd Appellate Dist. No.B186947Taxpayer's Counsel

W. Patrick O'Keefe, Jr.

W. Patrick O'Keefe, Jr. Incorporated

Filed – 05/25/04

FTB's Counsel

Anthony F. Sgherzi

Issue: Whether the denial of a deduction for depreciation based upon a federal adjustment was proper.

Year: 1992

Amount \$45,415.00 Tax

Status: **Calendar Notice sent by the Court on June 29, 2006, scheduling hearing for July 26, 2006**

SQUARE D COMPANY v. Franchise Tax Board

San Francisco Superior Court Docket No. CGC05442465

Taxpayer's Counsel

Allan L. Schare, Kimberly M. Reeder

McDermott Will & Emery LLP

Palo Alto, Ca.

Richard A. Hanson

McDermott Will & Emery LLP

Chicago, IL

Filed – 06/21/05

FTB's Counsel

Paul Gifford

Issues:

1. Whether Palatine Hills Leasing, which invested in leverage lease transactions, was part of the unitary business conducted by Square D Company.
2. Whether the income of Palatine Hills Leasing constituted business income of the unitary business conducted by Square D Company.
3. How the proceeds from the short-term investment of funds should be reflected in the sales factor of the apportionment formula.

Years: 1985 through 1990

Amount \$5,635,087.40

Status: Mandatory Settlement Conference advanced from September 5, 2006, to August 15, 2006. Trial scheduled for September 18, 2006. **Discovery proceeding.**

**STAPLES, MARK A. v. Taxpayer Advocate Bureau, Franchise Tax Board, and
State Board of Equalization**

Sacramento Superior Court Docket No. 04AS03598

Filed – 09/03/04

Court of Appeal, 3rd Appellate Court No. 04AS03598

Taxpayer's Counsel

Mark A. Staples, In Pro Per

FTB's Counsel

Michael J. Cornez

Issues: 1. Whether the method used by California to compute the tax owed by part-year resident violates various provisions of the United States Constitution.
2. Whether the department's review and disposition of the plaintiff's objections to additional tax were properly handled.

Year: 1998

Amount \$1,141.00

Status: Judgment By Court Pursuant to Code of Civil Procedure Section 437c in favor of Defendant filed on April 5, 2006. **Plaintiff's Notice of Appeal filed on June 9, 2006.**

TOY'S "R" US, INC. & AFFILIATES v. Franchise Tax Board

Sacramento Superior Court Docket No. 01AS04316

Filed - 07/17/01

Court of Appeal, 4th Appellate Court No. C045386

California Supreme Court No. S143422

Taxpayer's Counsel

Eric J. Coffill

Carley A. Roberts

Morrison & Foerster, LLP

FTB's Counsel

Michael J. Cornez

Issue: Whether gross receipts from the sale of short-term financial investment were properly excluded from the documentation of the sales factor.

Years: 1991 through 1994

Amount \$5,342,122.00

Status: **Plaintiffs/Appellants' Reply to Answer to Petition for Review filed on June 8, 2006.**

UNION BANK OF CALIFORNIA v. Franchise Tax Board

San Francisco Superior Court Docket No. CGC 05441957

Filed – 06/06/05

Taxpayer's Counsel

James P. Kleier, Brian Toman, John R. Messenger

Reed Smith, LLP

FTB's Counsel

Anne Michelle Burr

Issues: 1. Whether additions to the bad debt reserves of the taxpayer's unitary business were properly calculated.
2. Whether there were losses arising from the exchange of loans for bonds that are deductible as ordinary losses.

3. Whether the water's-edge election fee assessed violated the Commerce Clause of the United State Constitution.

Year: 1991 Amount \$15,953,167.00

Status: Mandatory Settlement Conference rescheduled to October 26, 2006. Trial scheduled for November 13, 2006. **Discovery proceeding.**

VENTAS FINANCE I, LLC v. Franchise Tax Board

San Francisco Superior Court Docket No. 05-440001

Taxpayer's Counsel

Amy L. Silverstein, Edwin Antolin

Silverstein & Pomerantz, LLP

Filed – 04/01/05

FTB's Counsel

Marguerite Stricklin

Issue: Whether Revenue and Taxation Code section 17942, which imposes a tax based upon the "total income from all sources reportable to this state" of LLC registered with the Secretary of State, violates the Due Process Clause and Commerce Clause.

Years: 2001 through 2003 Amount \$29,580.00

Status: **Plaintiff's Opening Trial Brief filed on June 9, 2006. Defendant's Trial Brief filed on June 12, 2006.**

YOSHINOYA WEST, INC. v. Franchise Tax Board

Los Angeles Superior Court, Central District No. BC274343

Court of Appeal, 2nd Appellate Dist. No. B178751

Taxpayer's Counsel

Dwayne M. Horii,

William C. Choi

Rodriguez, Horii & Choi

Filed - 05/22/02

FTB's Counsel

Donald R. Currier

Issues: 1. Whether Yoshinoya West, Inc. is involved in a unitary business with its Japanese parent company.
2. Whether application of the standard allocation and apportionment provision of the Revenue and Taxation Code disproportionately taxed Yoshinoya West.

Years: 1986 and 1987 Amount \$1,741,534.00

Status: **Opinion filed on June 26, 2006; Judgment is affirmed in favor of Defendant/Respondent.**